

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KEVIN GERARD MITCHELL,

Defendant.

CR-07-12-GF-BMM

ORDER

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on November 28, 2018. (Doc. 51). Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 153-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on November 27, 2018. The United States alleged that Defendant Mitchell violated the conditions of his supervised release by: 1) failing to report for substance abuse treatment; 2) failing to report for sex offender testing; 3) consuming alcohol; and by 4) failing to report for sex offender treatment. (Doc. 51 at 2). The government met its burden of

proof with respect to all of the alleged violations. *Id.* The violations prove serious and warrant revocation of Mitchell's supervised release.

Judge Johnston has recommended that the Court revoke Mitchell's supervised release and commit Mitchell to the custody of the Bureau of Prisons for four (4) months. *Id.* at 3. Judge Johnston further has recommended that supervised release follow his custody period for fifty (50) months. *Id.*

The Court finds no clear error in Judge Johnston's Findings and Recommendations. Mitchell's violations represent a serious breach of the Court's trust. A custody term of four (4) months with fifty (50) months of supervised release to follow is sufficient but not greater than necessary.

Accordingly, **IT IS ORDERED** that Judge Johnston's Findings and Recommendations (Doc. 51) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that Defendant Kevin Mitchell receive a custody sentence for four (4) months, followed by fifty (50) months of supervised release.

DATED this 14th day of December, 2018.



Brian Morris
United States District Court Judge